



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/619,793	07/20/00	CANTRELL	D BW-406

JOHN F SALAZAR
MIDDLETON AND REUTLINGER PSC
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE KY 40202

IM22/0924

EXAMINER
WALLS, D

ART UNIT	PAPER NUMBER
1731	3

DATE MAILED: 09/24/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.
09/619,793

Applicant(s)
Cantrell

Examiner
Dlonn A. Walls

Art Unit
1731



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-13 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-13 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2

20) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, and 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noe et al (US. Pat. No. 5,494,055) in view of Ross (US. Pat. No. 5,439,010).

Noe et al discloses a double-layered cigarette, the inner layer (which contacts the tobacco rod) consisting of a highly-porous paper with an air permeability of 4,000-80,000 CORESTA (corresponding to the claimed "porosity is from about 200 to 160,000 CORESTA units"), and an outer layer consisting of conventional cigarette paper (corresponding to the claimed "cellulosic fiber material") (col. 3, line 62 - col. 4, line 5). While Noe et al may not disclose that the highly porous inner wrap comprises wood fibers and flax fibers, Ross discloses a cigarette wrapper, designed to circumscribe a tobacco rod, which comprises a mixture of wood-pulp fibers - having an average fiber length of 0.5 - 3.5 mm - (corresponding to the claimed "soft wood/hard wood") and non-wood vegetable fibers, such as flax. The cigarette wrapper of Ross may have a basis weight within 10-40 g/meters squared (corresponding to the claimed "basis weight of from

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about 12-15 g/meters squared/ about 12 g/meters squared”), and an air permeability in the range of 4,000-40,000 (corresponding to the claimed “porosity is from about 200 to 160,000 CORESTA units”). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the inner wrap of Noe et al to include the flax/wood fiber composition of Ross because use of cellulosic fiber mixtures to comprise cigarette wrappers is conventional in the tobacco art. Ross further discloses that the proportions of the mixtures of the two types of fibers will be selected having regard to the desired air-permeability of the finished sheet product (col. 3, lines 29-56; col.4, lines 2-4). While Ross may not explicitly state that this cigarette wrapper comprises from 55 - 85%, or 75%, by weight of wood fibers and 15-45%, or 30%, by weight of flax fibers or that the flax is selected from the group consisting of 50-90% bast flax fibers and 10-50% shive flax fibers, it would have been obvious to one having ordinary skill in the art at the time of the invention to construct the inner cigarette wrapper of Noe et al modified by Ross having these wood fiber/flax fibre percentages, after very minimal, routine experimentation, in order to achieve the desired air-permeability which is consistent with the teachings of Ross.

3. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noe et al (US. Pat. No. 5,494,055) in view of Ross (US. Pat. No. 5,439,010), further in view of Drewett et al (US. Pat. No. 5,172,708).

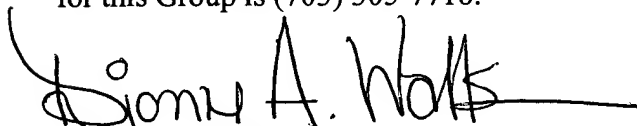
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While Noe et al modified by Ross may not disclose that the soft wood is pine or that the hard wood is eucalyptus, Drewett et al does disclose smoking articles having wrappers that comprise either of these two types of soft/hard wood fibers (col. 7, lines 20-68). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention fabricate the inner wrapper of Noe et al modified by Ross to include either pine or eucalyptus as its wood fiber source because these types of woody fibers are conventional materials for cigarette paper fabrication in the tobacco art.

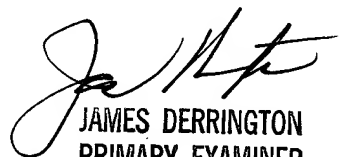
Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Dionne A. Walls whose telephone number is (703) 305 - 0933. The examiner can normally be reached Monday-Thursday from 6:30AM - 4:00PM (EST). The examiner can also be reached on alternate Fridays.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached at (703) 308-3837. Additionally, the fax number for this Group is (703) 305-7718.


Dionne A. Walls

September 20, 2001


JAMES DERRINGTON
PRIMARY EXAMINER
ART UNIT ~~137~~-1731